

Appl. No. 09/501,445
Amdt. Dated 12 Jan 2005
Reply to Office Action of 12 November 2004

Attorney Docket No. 26.0178 US

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REMARKS

Claims 1-13 are pending in this application. Claims 1-13 were rejected in the Office Action dated 12 November 2004 ("Office Action"). Applicants traverse the outstanding rejections. Reconsideration and allowance of claims 1-13 is hereby requested.

The Examiner is respectfully requested to withdraw finality of the Office Action as premature in view of the Examiner's expanded explanation with respect to rejection of claims 1-13 under 35 U.S.C. 112, first paragraph. In the first Office Action, dated 25 February 2004, the Examiner did not establish a reasonable basis to question the enablement provided for the claimed invention. Specifically, the first Office Action, did not "present the best case with all the relevant reasons, issues, and evidence" in support of the enablement rejection. MPEP 2164.04. In consequence, the Examiner relies on the present Office Action to expand and explain the enablement rejection, in part using applicants' arguments in the previous Response to Office Action ("Response"), making finality of the present Office Action premature and inappropriate.

As discussed below, in elaborating and explaining the enablement rejection the Examiner misconstrues applicants' disclosure in the specification and arguments as relying on GeoFrame for enablement of the claimed invention. Specifically, the Examiner takes the position that applicants' specification and arguments in Response to the first Office Action "rely on the GeoFrame teaching," thereby making the GeoFrame material essential to the claimed invention. Accordingly, the Examiner is respectfully requested to withdraw finality of the present Office Action to allow applicants a full opportunity to respond to the expanded explanation in the present Office Action.

On page 2 of the Office Action, paragraphs 3 and 4, the Examiner states that "GeoFrame is relied upon for essential matter in the instant specification" and

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“[a]pplicants have only provided a later version of the manual.” Applicants respectfully disagree with the Examiner’s characterization that GeoFrame is essential matter. Moreover, applicants are unsure what the Examiner means by “later version of the manual.”

In compliance with the Examiner’s request in the first Office Action, applicants have provided the Examiner with a copy of a GeoFrame manual for consideration. Applicants, however, respectfully disagree that GeoFrame material is essential for an understanding of the claimed invention. Indeed, as discussed below, the specification states that a geophysical model of a type generally used in designing seismic surveys can be used (page 4, line 4) in practicing the claimed invention, and GeoFrame is an example of a suitable geophysical model (page 5, lines 6-11). GeoFrame and other geophysical models are commercially available, and a person skilled in the art would be well versed with such models and would know how to acquire and use a suitable model for practicing the claimed invention. Therefore, applicants respectfully request the Examiner withdraw the requirement for additional “user’s manuals to related Schlumberger software products” since applicant have fully complied with the Examiner’s previous request in the first Office Action.

In the Office Action, on page 4, paragraph 12, the Examiner points to the specification at page 5, lines 6-12, for the proposition that “the specification repeatedly refers potential readers to GeoFrame ... to carry out the claimed invention.” A closer reading of the referenced portion of the specification shows that applicants clearly state that GeoFrame is used only “by way of example” (page 5, line 6) and that “the methodology described can be applied to other such [software] environments while still retaining the essential features of the invention” (page 5, lines 9-10).

Applicants respectfully also direct the Examiner’s attention to other parts of the specification (e.g., page 4, lines 4-10) which when read in combination with page 5